

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 207

Introduced by Senator Ackerman

February 13, 2003

An act to amend Section ~~41954~~ 41960.2 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 207, as amended, Ackerman. Air quality: gasoline vapor emission control systems.

Existing law designates the State Air Resources Board as the state agency responsible for the control of vehicular air pollution. Existing law requires the state board to adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards that are reasonable and necessary to achieve or maintain any applicable ambient air quality standard, and to adopt additional performance standards that are reasonable and necessary to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid spillage and excessive evaporative emissions from liquid retained in the dispensing nozzle or vapor return hose between refueling events. Existing law requires the state board to certify gasoline vapor control systems in cooperation with air quality management districts and air pollution control districts.

This bill would provide that any defect or malfunction of a certified gasoline vapor emission control system, device, or component detected by ~~a manual or electronic monitoring device or procedure~~ *equipment that provides continuous real-time monitoring and the monitoring*

equipment alerts the station owner that a failure mode has been detected, does not constitute a violation of any air pollution control law, regulation, rule, procedure, or permit condition, unless the ~~defect or malfunction is not corrected within 21 days of detection~~ owner or operator, or employee of the owner or operator, of the certified gasoline vapor emission control system, device, or component fails to take action to correct the defect or malfunction within 3 business days, as defined, or fails to correct the defect or malfunction within 21 days of the detection, or unless an inspector representing the district with jurisdiction determines, through the use of a test method certified by the state board, that the gasoline vapor emission control system, device, or component contains a defect or malfunction.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section ~~41954~~ 41960.2 of the Health and Safety
2 Code is amended to read:
3 ~~41954. (a) The state board shall adopt procedures for~~
4 41960.2. (a) All installed systems for the control of gasoline
5 vapors resulting from motor vehicle fueling operations shall be
6 maintained in good working order in accordance with the
7 manufacturer's specifications of the system certified pursuant to
8 Section 41954.
9 (b) Whenever a gasoline vapor recovery control system is
10 repaired or rebuilt by someone other than the original
11 manufacturer or its authorized representative, the person shall
12 permanently affix a plate to the vapor recovery control system that
13 identifies the repairer or rebuilder and specifies that only certified
14 equipment was used. In addition, a rebuilder of a vapor control
15 system shall remove any identification of the original
16 manufacturer if the removal does not affect the continued safety
17 or performance of the vapor control system.
18 (c) (1) The executive officer of the state board shall identify
19 and list equipment defects in systems for the control of gasoline
20 vapors resulting from motor vehicle fueling operations that
21 substantially impair the effectiveness of the systems in reducing
22 air contaminants. The defects shall be identified and listed for each

1 certified system and shall be specified in the applicable
2 certification documents for each system.

3 (2) On or before January 1, 2001, and at least once every three
4 years thereafter, the list required to be prepared pursuant to
5 paragraph (1) shall be reviewed by the executive officer at a public
6 workshop to determine whether the list requires an update to
7 reflect changes in equipment technology or performance.

8 (3) Notwithstanding the timeframes for the executive officer's
9 review of the list, as specified in paragraph (2), the executive
10 officer may initiate a public review of the list upon a written
11 request that demonstrates, to the satisfaction of the executive
12 officer, the need for such a review. If the executive officer
13 determines that an update is required, the update shall be
14 completed no later than 12 months after the date of the
15 determination.

16 (d) When a district determines that a component contains a
17 defect specified pursuant to subdivision (c), the district shall mark
18 the component "Out of Order." No person shall use or permit the
19 use of the component until the component has been repaired,
20 replaced, or adjusted, as necessary, and the district has reinspected
21 the component or has authorized use of the component pending
22 reinspection.

23 (e) Where a district determines that a component is not in good
24 working order but does not contain a defect specified pursuant to
25 subdivision (c), the district shall provide the operator with a notice
26 specifying the basis on which the component is not in good
27 working order. If, within seven days, the operator provides the
28 district with adequate evidence that the component is in good
29 working order, the operator shall not be subject to liability under
30 this division.

31 (f) (1) *Notwithstanding any other provision of law, a defect or*
32 *malfunction of a certified gasoline vapor emission control system,*
33 *device, or component is not a violation of any air pollution control*
34 *law, regulation, rule, procedure, or permit condition, if both of the*
35 *following criteria are met:*

36 (A) *The gasoline vapor emission control system, device, or*
37 *component is monitored by detection equipment that provides*
38 *continuous, real-time monitoring of the vapor recovery system,*
39 *device, or component.*

1 (B) The detection equipment alerts the station operator that a
2 failure mode of the vapor recovery system, device, or component
3 has been detected.

4 (2) Notwithstanding paragraph (1), a defect or malfunction of
5 a certified gasoline vapor emission control system, device, or
6 component is a violation of any air pollution control law,
7 regulation, rule, procedure, or permit condition, if any of the
8 following occurs:

9 (A) The owner or operator, or employee of the owner or
10 operator, of the certified gasoline vapor emission control system
11 fails to take action to correct the defect or malfunction, including,
12 but not limited to, contacting a repair company and ordering
13 replacement parts, within three business days of detection of the
14 defect or malfunction. For the purposes of this subparagraph,
15 “business day” means any day other than a Saturday, Sunday, or
16 day observed as a holiday by the state government.

17 (B) The owner or operator, or employee of the owner or
18 operator, of the certified gasoline vapor emission control system
19 fails to correct the defect or malfunction within 21 days of the
20 detection of the defect or malfunction.

21 (C) An inspector representing the district determines, through
22 the use of a test method certified by the state board, that the
23 gasoline vapor emission control system, device, or component
24 contains a defect or malfunction.

25 ~~determining the compliance of any system designed for the control~~
26 ~~of gasoline vapor emissions during gasoline marketing operations,~~
27 ~~including storage and transfer operations, with performance~~
28 ~~standards that are reasonable and necessary to achieve or maintain~~
29 ~~any applicable ambient air quality standard.~~

30 ~~(b) The state board shall, after a public hearing, adopt~~
31 ~~additional performance standards that are reasonable and~~
32 ~~necessary to ensure that systems for the control of gasoline vapors~~
33 ~~resulting from motor vehicle fueling operations do not cause~~
34 ~~excessive gasoline liquid spillage and excessive evaporative~~
35 ~~emissions from liquid retained in the dispensing nozzle or vapor~~
36 ~~return hose between refueling events, when used in a proper~~
37 ~~manner. To the maximum extent practicable, the additional~~
38 ~~performance standards shall allow flexibility in the design of~~
39 ~~gasoline vapor recovery systems and their components.~~

1 ~~(c) (1) The state board shall certify, in cooperation with the~~
2 ~~districts, only those gasoline vapor control systems that it~~
3 ~~determines will meet the following requirements, if properly~~
4 ~~installed and maintained:~~

5 ~~(A) The systems will meet the requirements of subdivision (a).~~

6 ~~(B) With respect to any system designed to control gasoline~~
7 ~~vapors during vehicle refueling, that system, based on an~~
8 ~~engineering evaluation of that system's component qualities,~~
9 ~~design, and test performance, can be expected, with a high degree~~
10 ~~of certainty, to comply with that system's certification conditions~~
11 ~~over the warranty period specified by the board.~~

12 ~~(C) With respect to any system designed to control gasoline~~
13 ~~vapors during vehicle refueling, that system shall be compatible~~
14 ~~with vehicles equipped with onboard refueling vapor recovery~~
15 ~~(ORVR) systems.~~

16 ~~(2) The state board shall enumerate the specifications used for~~
17 ~~issuing the certification. After a system has been certified, if~~
18 ~~circumstances beyond the control of the state board cause the~~
19 ~~system to no longer meet the required specifications or standards,~~
20 ~~the state board shall revoke or modify the certification.~~

21 ~~(d) The state board shall test, or contract for testing, gasoline~~
22 ~~vapor control systems for the purpose of determining whether~~
23 ~~those systems may be certified.~~

24 ~~(e) The state board shall charge a reasonable fee for~~
25 ~~certification, not to exceed its actual costs therefor. Payment of the~~
26 ~~fee shall be a condition of certification.~~

27 ~~(f) No person shall offer for sale, sell, or install any new or~~
28 ~~rebuilt gasoline vapor control system, or any component of the~~
29 ~~system, unless the system or component has been certified by the~~
30 ~~state board and is clearly identified by a permanent identification~~
31 ~~of the certified manufacturer or rebuilder.~~

32 ~~(g) (1) Except as authorized by other provisions of law and~~
33 ~~except as provided in this subdivision, no district may adopt, after~~
34 ~~July 1, 1995, stricter procedures or performance standards than~~
35 ~~those adopted by the state board pursuant to subdivision (a), and~~
36 ~~no district may enforce any of those stricter procedures or~~
37 ~~performance standards.~~

38 ~~(2) Any stricter procedures or performance standards shall not~~
39 ~~require the retrofitting, removal, or replacement of any existing~~
40 ~~system, which is installed and operating in compliance with~~

1 applicable requirements, within four years from the effective date
2 of those procedures or performance standards, except that existing
3 requirements for retrofitting, removal, or replacement of nozzles
4 with nozzles containing vapor-check valves may be enforced
5 commencing July 1, 1998.

6 ~~(3) Any stricter procedures or performance standards shall not~~
7 ~~be implemented until at least two systems meeting the stricter~~
8 ~~performance standards have been certified by the state board.~~

9 ~~(4) If the certification of a gasoline vapor control system, or a~~
10 ~~component thereof, is revoked or modified, no district shall~~
11 ~~require a currently installed system, or component thereof, to be~~
12 ~~removed for a period of four years from the date of revocation or~~
13 ~~modification.~~

14 ~~(h) No district shall require the use of test procedures for testing~~
15 ~~the performance of a gasoline vapor control system unless those~~
16 ~~test procedures have been adopted by the state board or have been~~
17 ~~determined by the state board to be equivalent to those adopted by~~
18 ~~the state board, except that test procedures used by a district prior~~
19 ~~to January 1, 1996, may continue to be used until January 1, 1998,~~
20 ~~without state board approval.~~

21 ~~(i) With respect to those vapor control systems subject to~~
22 ~~certification by the state board, there shall be no criminal or civil~~
23 ~~proceedings commenced or maintained for failure to comply with~~
24 ~~any statute, rule, or regulation requiring a specified vapor recovery~~
25 ~~efficiency if the vapor control equipment which has been installed~~
26 ~~to comply with applicable vapor recovery requirements meets~~
27 ~~both of the following requirements:~~

28 ~~(1) Has been certified by the state board at an efficiency or~~
29 ~~emission factor required by applicable statutes, rules, or~~
30 ~~regulations.~~

31 ~~(2) Is installed, operated, and maintained in accordance with~~
32 ~~the requirements set forth in the document certification and the~~
33 ~~instructions of the equipment manufacturer.~~

34 ~~(j) Notwithstanding any other provision of law, a defect or~~
35 ~~malfunction of a certified gasoline vapor emission control system,~~
36 ~~device, or component detected by a manual or electronic~~
37 ~~monitoring device or procedure does not constitute a violation of~~
38 ~~any air pollution control law, regulation, rule, procedure, or permit~~

1 condition, unless the defect or malfunction is not corrected within
2 21 days of detection.

O

